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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,828	01/10/2000	CHARLES S. TAYLOR	GUID-006CON6	4784

7590 01/10/2007  
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EXAMINER
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HO, UYEN T

ART UNIT	PAPER NUMBER
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3731

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/10/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/480,828

Applicant(s)

TAYLOR ET AL.

Examiner

(Jackie) Tan-Uyen T. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 14, 15 and 18-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14, 15, 18-23, 25-30, 32-33, 35-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 10/02/06 have been fully considered but they are not persuasive. The support arm was not mention in the previous rejection. Therefore, a new non-office action is made as follow.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 14, 15, 19-23, 25-30, 32-33, 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Chaux (4,852,552). Chaux discloses:

Regarding claim 14

- a housing (26),
- a first arm (12) having a rib engaging blade (22, 24) at a distal end portion
- a second arm (10) having a rib engaging blade (18, 20) at a distal end portion
- a mechanism (including 8, 14, 16) interposed between the first and second arms, at least the portion (14) being contained in the housing (26)

- in figure 6, as the second arm (10) moved away from the first arm (12) in a transverse direction parallel to the housing also move the engaging blade (18, 20) upward direction different from the transverse direction.

Regarding claim 15, a rack bar (8) fixedly attached to the first arm (12) at one end and at an other end movably engages a proximal end of the second arm (10).

Regarding claim 19, the engaging blades of the second arm (10) being moved upward direction as the second arm moved away from the first arm (fig. 6) and rotatable mounted with respect to the mechanism via the rotatable member (28). As the member (28) being rotated during use the engaging blade rotated. With the broadest reasonable interpretation "during use" in compasses at a time one rotates the member (28).

Regarding claim 20

- a base portion (8),
- a first arm (12) having a rib engaging blade (22, 24) at a distal end portion
- a second arm (10) having a rib engaging blade (18, 20) at a distal end portion
- a mechanism (including ratchet portion of the base, 14, 16) interposed between or connecting the first and second arms,
- in figure 6, as the second arm (10) moved away from the first arm (12) in a transverse direction parallel to the housing also move the engaging blade (18, 20) upward direction different from the transverse direction.

Regarding claim 21, a support arm (65) rotatably mounted to the base (8) via the rotatable member (28) and the support arm adapted to rest against the surface a body of a patient during driving by a mechanism.

Regarding claim 22, the support arm is fixed to the second arm (10) and rotated as the second arm rotated during driving by said mechanism (col. 4, lines 56-66).

Regarding claim 23, the support arm (65) moves with respect to the second arm (10).

Regarding claim 24, the support arm (65) comprises a sternal pad or blade at a distal end.

Regarding claims 25 and 26,

- a first arm (12) having a rib engaging blade (22, 24) at a distal end portion
- a second arm (10) having a rib engaging blade (18, 20) at a distal end portion
- adjusting means (including 8, 14, 16) interposed between the first and second arms
- in figure 6, as the adjusting means moves the second arm (10) away from the first arm (12) in a transverse direction parallel to the housing also move the engaging blade (18, 20) upward direction different from the transverse direction.

Regarding claims 26-28, the second arm and the blades (18, 20) and support arm (65) rotates during lifting (col. 4, lines 56-66).

Regarding claims 29, 30, 32, 33, and 35-37:

- a base portion (8),
- a first arm (12) having a rib engaging blade (22, 24) at a distal end portion
- a second arm (10) having a rib engaging blade (18, 20) at a distal end portion
- a mechanism (including ratchet portion of the base, 14, 16) interposed between or connecting the first and second arms,
- in figure 6, as the second arm (10) moved away from the first arm (12) in a transverse direction parallel to the housing also move the engaging blade (18, 20) upward direction different from the transverse direction.
- a support arm (65) rotatably mounted to the base (8) via the rotatable member (28) and the support arm adapted to rest against the surface a body of a patient during driving by a mechanism.
- an offset positioning assembly (66, 68, 76) secures the support arm on the second arm and prevents movement of the support arm on the second arm.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chaux '552 in view of Coker '841. Chaux discloses all the limitation as claimed except fails to disclose the blades comprising a plurality of fingers. Coker discloses a retractor blade with fingers. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide fingers for the engaging blades of Chaux's device in order to enhance the gripping.

***Allowable Subject Matter***

6. Claims 24, 31, 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is 571-272-4696. The examiner can normally be reached on MULTIFLEX Mon. to Sat...

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANHTUAN NGUYEN can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



(Jackie) Tan-Uyen T. Ho  
Primary Examiner  
Art Unit 3731

January 5, 2007